

EXHIBIT 19

GRAND JURY 2019A
EASTERN DISTRICT OF CALIFORNIA

REPORTER'S TRANSCRIPT OF AUDIO PROCEEDINGS
TESTIMONY OF PETER A. SWAN
AT 501 I STREET, SACRAMENTO
THURSDAY, DECEMBER 5, 2019

FOR THE GOVERNMENT:

MCGREGOR W. SCOTT, UNITED STATES ATTORNEY

BY: CHRISTOPHER HALES, AUSA

U.S. DEPARTMENT OF JUSTICE

501 I STREET, SUITE 10-100

SACRAMENTO, CALIFORNIA 95814

BEHMKE REPORTING AND VIDEO SERVICES, INC.
(415) 597-5600

1

1 THURSDAY, DECEMBER 5, 2019; 1:54 P.M.

2
3 (Proceedings heard before the grand jury,
4 reported but not transcribed, from
5 1:54 p.m. to 1:57 p.m.)
6

7 MR. HALES: So you're just going to sit right
8 there.

9 THE FOREPERSON: Hello.

10 THE WITNESS: Hi.

11 THE FOREPERSON: Can you please state and spell
12 your name for the record.

13 THE WITNESS: Peter A. Swan. That's P-e-t-e-r,
14 S-w-a-n.

15 THE FOREPERSON: All right.
16

17 PETER A. SWAN,
18 a witness called on behalf of the United States Grand
19 Jury in and for the Northern District of California,
20 having been duly sworn, testified as follows:
21

22 THE WITNESS: I will.

23 THE FOREPERSON: Thank you.
24

25 ///

EXAMINATION

BY MR. HALES:

Q. Good afternoon, Mr. Swan.

Earlier this afternoon, did we speak for a while, with an agent present from the Department of Transportation?

A. Yes.

Q. Okay. And are you appearing here pursuant to a grand jury subpoena that you received?

A. Yes, I am.

Q. Okay. I'd like to ask you some background questions, just so the grand jury -- it will help them understand why you're here, in relation to the investigation.

So have you spent a substantial portion of your life involved with skydiving-related activities?

A. Yes.

Q. How did you first become interested in that?

A. When I was 11 years old, I grew up next to the airport out at Davis and made my way out there and started making friends and decided to work out there.

Q. Okay. And have you been involved in skydiving for pretty much your entire life, since that time?

A. Yes.

Q. Okay. Have you ever met an individual named

1 Bill Dawes?

2 A. Yes.

3 Q. Okay. And when did you first meet Bill Dawes?

4 A. Probably 1977.

5 Q. Okay. And how did you first come to meet him
6 back in 1977?

7 A. He was leasing the airport property in Pope
8 Valley, California, running a drop zone there, and we
9 would congregate there. And I was just too young to
10 jump at the time, but I would get rides up and hang out.

11 Q. Okay. And can you describe for the grand jury
12 what different certifications and ratings you have as a
13 skydiver, as an instructor, any -- any such things like
14 that that you have.

15 A. Oh, I have a master parachute license. It's a
16 D license, expert rating.

17 I've possessed a tandem instructor
18 certificate, coach rating.

19 I have 5,400, thereabout, jumps.

20 I'm a master -- excuse me -- a master
21 parachute rigger. I've been hands-on with parachutes
22 for 45 years, since I was 12 years old.

23 Q. All right.

24 A. Um --

25 Q. Anything else?

1 A. -- I've worked -- I've worked -- I've worked
2 in -- oh, in the -- in the sewing needle trade, making
3 backpacks for firefighters.

4 Worked for a parachute manufacturer, left,
5 went to another backpack maker, back to the parachute
6 manufacturer, then opened my own rigging business.

7 Q. Okay. So, yeah, let's fast forward 20 years
8 from when you met -- first met Bill Dawes in 1977 to
9 1997.

10 A. Okay.

11 Q. Around that time, did you make a change in
12 your employment?

13 A. Right.

14 Q. Okay. What --

15 A. I had left the parachute manufacturer. My
16 wife had decided to buy a sign shop in the Foothills, in
17 Grass Valley, and that was a really tough -- tough thing
18 to do. So I started getting more parachute rigging
19 work, and Bill offered me work.

20 Q. Okay. And, specifically, where did he offer
21 you work?

22 A. At Lodi.

23 Q. Okay.

24 A. At the Acampo airport. Lodi airport in
25 Acampo.

1 A. Uh --

2 Q. Or could you tell?

3 A. -- he wasn't doing anything other than. I
4 don't know how much attention he was paying, but he was
5 present.

6 Q. Okay. Now, I want to fast-forward a little
7 bit in time.

8 In or about August of 2016, did you become
9 aware of an accident that occurred with a skydiver and
10 tandem instructor at Bill Dawes's drop zone?

11 A. Yes.

12 Q. Okay. And, specifically, what happened in
13 that incident in August 2016? In broad terms.

14 A. The accident or my knowledge of it?

15 Q. The accident. Just in broad terms --

16 A. Okay.

17 Q. -- what happened that day?

18 A. Broad terms, the tandem instructor failed to
19 follow procedure for a known, but somewhat rare, minor
20 malfunction of the equipment and deployed his parachutes
21 out of sequence, and they entangled and they -- nothing
22 opened, and they both impacted the ground at a high rate
23 of speed.

24 Q. Did the instructor and the customer both die
25 in that incident?

1 A. Yes.

2 Q. Okay. I'm going to ask you names real
3 quickly.

4 Do you recall the name Yong -- Yong Hyon Kwon?

5 A. Yes.

6 Q. Who was that?

7 A. South Korean national, as I remember.

8 Somewhat of a visitor. I'm not sure his status.

9 Q. Was he the tandem instructor who died in that
10 accident --

11 A. Yes.

12 Q. -- in August 2016?

13 A. Correct.

14 Q. Okay. And what about Tyler Turner; who was
15 that?

16 A. That was the paying passenger in the front.

17 Q. Okay. Now, I want to sort of put up goalposts
18 in time, the first one being when you found out that Rob
19 Pooley was suspended from being a tandem examiner, and
20 then the second one being the date of that accident in
21 August 2016.

22 A. Uh-huh.

23 Q. Between those two goalposts in time, did you
24 see Rob Pooley conducting tandem -- classes for tandem
25 instructors at Bill Dawes's business without Yuri

1 Kwon get trained --

2 Q. Okay.

3 A. -- so I don't know where he fit into that
4 timeline with the goalposts.

5 Q. Okay. The day that Mr. Kwon and Mr. Turner
6 died in that accident, did -- did you receive a phone
7 call from Bill Dawes?

8 A. I did.

9 Q. What did he ask you to do, if anything -- what
10 did he tell you, and what, if anything, did he ask you
11 to do?

12 A. His first words were, "I believe we've had a
13 tandem fatality."

14 And at that time, my, I guess, guardianship,
15 or however you want to call it for the rest of our --
16 our group, kicked in, and I said, "Do you want me to go
17 out and find it?"

18 And he said, "Yes."

19 And I said, "Where was it?"

20 And he gave me instructions that turned out to
21 be wrong.

22 Q. Okay.

23 A. And so I went out to go look where he told me.

24 Q. All right. Later that day, did you -- or in
25 the ensuing days, did you examine the parachute from

1 that accident?

2 A. I did. With the --

3 Q. Okay.

4 A. -- FAA.

5 Q. Okay. Did you also review videos of the
6 accident?

7 A. I did.

8 Q. Okay. And what -- I don't know if you can do
9 this without getting into too much detail, but if you
10 can describe, basically, your assessment of what went
11 wrong during that skydiving accident.

12 A. Okay. Well, after six hours of watching video
13 and frame by frame, I determined that Kwon had a -- I
14 think I stated before -- a minor, but known,
15 malfunction, where the drogue parachute, it's the small
16 parachute the tandem pair releases to stabilize and slow
17 their fall, it fouled on itself. That, in itself, is
18 not a big problem. You -- the standard operating
19 procedure that -- the malfunction tree, if you call it
20 that, is to pull the releases to release the drogue and
21 start the main parachute deployment.

22 He looked at the drogue. When he threw it, he
23 looked over the shoulder, and --

24 Q. And for the record, you just looked over your
25 right shoulder --

1 A. -- my right shoulder --

2 Q. -- is that right? We only get a paper record
3 of this so I want to capture your gestures.

4 A. -- and he turned far enough to where I would
5 assume, by the video and still pictures that I looked
6 at, that he could see the drogue but didn't recognize
7 what he saw.

8 And I think it was at that time that he --
9 let's just say the train came off the tracks, in his
10 thinking.

11 In a high-stress situation, a lot of people
12 revert to their original training, which, for him, would
13 be sport training, and that's different than tandem.

14 He, in response to that, should have activated
15 the drogue releases, which would have started the main
16 deployment, and if it was too slow of a deployment
17 because of the fouled drogue and a malfunction occurred,
18 he could get rid of it and open his reserve parachute.

19 It's imperative that he did that immediately
20 to not build up speed. The drogue parachute slows the
21 pair down, to keep a reasonable free-fall rate. If it's
22 fouled, you have to react and release the drogue and get
23 the main parachute deployment.

24 He checked the bottom of the parachute pack,
25 with his hand, through the drogue, in what I think was

1 an attempt to make sure that he threw it. He touched
2 that area where the drogue handle was and then went back
3 to a free-fall position.

4 He had several gyrations, with tipping over to
5 his side, recovering, having the tandem passenger move
6 over to the left side, recovering from that, checking
7 his altimeter, which was a small digital altimeter, and
8 I believe he couldn't see it from a low-angle sun.
9 There was a shot where he looked like he was trying to
10 press the backlight to see where he was. His attention
11 was divided up way too much.

12 Down at the lower end of the jump, there was
13 clear evidence of the video guy giving him an index
14 finger, pointing, and he used his right index finger,
15 which is the international symbol to open your
16 parachute. He didn't do it.

17 He pulled the release handle for the main
18 parachute, which was fruitless because there was nothing
19 to cut away from, nothing -- no main parachute out to
20 release, and then pulled at his reserve.

21 And as luck would have it, the drogue was
22 traveling from feet to head, swinging back and forth,
23 maybe 30 to 45 degrees, total, the reserve parachute
24 came up and contacted the drogue parachute, bounced off,
25 and the drogue parachute made a counterclockwise wrap

1 around the bridle of the reserve parachute.

2 At that time, the -- the bag holding the
3 reserve parachute was sucked up to the drogue and
4 stopped. It couldn't open the locking stows that were
5 on the bag and release the drogue parachute -- or the
6 reserve parachute out of its deployment bag.

7 And that's how they rode the rest of the
8 free-fall.

9 Q. The sequence you just described, did Mr. Kwon
10 follow the correct sequence he should have followed, if
11 given proper tandem instruction training, or did he
12 follow an improper sequence?

13 A. He did not follow proper procedure.

14 Q. Okay. And is the proper procedure something
15 that should be taught in a conventional tandem
16 instructor training course?

17 A. Yes.

18 Q. Going back to your conversation with
19 Mr. Dawes, after Rob Pooley had been suspended, what, if
20 anything, do you recall in that conversation -- and let
21 me ask it another way.

22 Do you recall anything at all, in that
23 conversation, about Mr. Dawes suggesting there was a
24 financial aspect between the agreement between
25 Mr. Pooley and Mr. Garmachov?

1 depicted in those and who they are.

2 A. Number 1, Bill Dawes; number 2, Rob Pooley;
3 number 3, Yuri Garmachov.

4 Q. Okay. All right. I'm going to take a minute
5 to look at my notes, and we may be done. Just take one
6 second.

7 I did forget to ask you one thing.

8 After the accident in August 2016 that we
9 talked about, in the ensuing one or two weeks, did you
10 have a conversation with Rob Pooley?

11 A. Yes.

12 Q. Okay. Where did that conversation take place?

13 A. In my workshop.

14 Q. Okay. And what, if anything, did Rob Pooley
15 say to you, during that conversation?

16 A. Obviously, he was upset from the fatalities.
17 And what he volunteered to me was that Bill Dawes had --
18 at some time during those goalposts of him being
19 suspended and the fatalities, that Bill Dawes had come
20 in and told him he was taking too long to teach the
21 courses, that they didn't need to know all that safety
22 stuff, and all they needed to know was pull the drogue
23 release and flare the parachute all the way.

24 Q. Did you say anything in response?

25 A. I asked him, "So what did you do?"

1 And he said, "I taught everything."

2 And at the time, I thought that was just a
3 he-said-she-said, covering his butt.

4 Q. Okay. Did you ever have conversations with
5 anyone else on this similar topic, Bill Dawes giving Rob
6 Pooley advice or complaints about how the training was
7 being conducted?

8 A. I did.

9 Q. Who did you speak to about that?

10 A. Oh, fast-forward to the next spring, when
11 foreign people would start showing up to jump and work,
12 a guy named Lui Fernandez from Uruguay came by and was
13 surprised at how slow the business was.

14 And we got to talking about how the
15 progression had been from the accident to where we were
16 and talking about Bill making poor decisions with the
17 business.

18 And he volunteered that, you know -- I'll
19 quote him -- he said, "Yes, Bill came into my training
20 course with Rob and said this: 'You're taking too long,
21 they don't need to know all the safety stuff, and all
22 they need to know is pull the drogue release and flare
23 the parachute.'"

24 It was pretty much exactly word for word of
25 what Rob told me.